

Date signed October 27, 2004



Paul Mannes

PAUL MANNES
U. S. BANKRUPTCY JUDGE

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MARYLAND
at Greenbelt**

IN RE:	:	
	:	
KEVIN D. SHELTON	:	Case No. 04-26244PM
	:	Chapter 7
Debtor	:	
-----	:	

**MEMORANDUM OF DECISION
(Debtor's Motion to Convert Case)**

This case comes before the court on the Trustee's opposition to the Debtor's Motion to convert this case to a case under Chapter 13. The court finds that the Motion to convert the case to one under Chapter 13 is frivolous and brought for no purpose other than delay. The Debtor scheduled his property with a value of \$147,504.23, a value far under the sum of the liens secured by the property. In addition, Debtor's Statement of Intent filed July 6, 2004, pursuant to § 521(2) of the Bankruptcy Code, stated that he intended to surrender the subject property.

A motion for relief from the automatic stay of § 362(a) of the Bankruptcy Code was filed by the senior secured creditor. The motion was not opposed, and an Order granting relief from the stay was entered September 1, 2004. Thereafter, the Trustee filed a Notice of Assets and a Motion to Sell the subject property. Subsequently, on October 4, 2004, the Debtor filed a Motion to Convert Case to a case under Chapter 13. Nothing would be accomplished by the conversion as the stay has been lifted as to the senior secured creditor. Moreover, Debtor has yet to file a Chapter 13 Plan. Any such filing would be an exercise in futility in that the Debtor shows monthly expenses of at least \$1,335.00 and monthly income of \$413.00.

The court must conclude that the purported conversion was filed in bad faith. The court will deny the Motion. An appropriate order will be entered.

cc:

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Cheryl E. Rose, Trustee 50 W. Edmonston Drive, #600, Rockville, MD 20852

End of Memorandum